

Stephen M. Latimer #7317
Loughlin & Latimer
131 Main Street, Suite 235
Hackensack, N.J. 07601
201 487 9797
e-mail slatimer@loughlinlatimer.com
Attorneys for plaintiff

WILLIAM HOLMES,

plaintiff,
v.

WAELE LEWIS SHAHID, BADGE NO.
2712; TYRONE ROBERT HICKEY,
BADGE NO. 2736; DET. "JOHN"
SCERBO; CITY OF JERSEY CITY;
JERSEY CITY POLICE DEPARTMENT,

defendants.

SUPERIOR COURT OF NEW JERSEY
HUDSON COUNTY
LAW DIVISION

Docket no.

CIVIL ACTION

COMPLAINT AND JURY DEMAND

FILED
TEAM #4

JUN 24 2005

SUPERIOR COURT OF NJ
COUNTY OF HUDSON
CIVIL DIVISION #7

L-3205-0

William Holmes residing, at 108 Fulton Avenue, Jersey City, New Jersey for his
complaint against the defendants alleges:

PARTIES

1. Plaintiff William Holmes is an African American citizen of the United States.
2. Defendants Tyrone Robert Hickey, Wael Lewis Shahid and Detective "John" Scerbo, first name unknown, are police officers employed by the Jersey City Police Department.
3. The City of Jersey City is a municipality organized under the laws of the State of New Jersey.
4. The Jersey City Police Department is an agency of the City of Jersey City. It is responsible for the enforcement of state and municipal statutes and ordinances.

5. For purposes of 42 U.S.C. § 1983 Hickey, Shahid and Scerbo are sued in their individual capacities.

JURISDICTION

6. Plaintiff filed a Notice of Claim pursuant to N.J.S.A. 59:8-1 et. seq. on or about June 2, 2004, within ninety days of the date the claim accrued. More than one hundred eighty days have elapsed since the Notice of Claim was filed.

FACTS

7. On or about March 6, 2004 at about 2:00 a.m. Shahid and Hickey came upon plaintiff at Larsen's Restaurant, 508 Bergen Avenue, Jersey City New Jersey. Plaintiff appeared to be attempting to enter the restaurant which was locked at the time.
8. Plaintiff fled the scene on foot. Hickey and Shahid chased plaintiff on foot. Scerbo, responding to a radio call, also chased plaintiff.
9. Plaintiff slipped and fell to the ground on wet pavement on Clinton Avenue, near Bergen Avenue.
10. Hickey, Scerbo and Shahid arrived at plaintiff's location while he was still on the ground. Shahid, with Scerbo's assistance, handcuffed plaintiff behind his back.
11. Plaintiff offered no resistance to the officers.
12. Plaintiff was still on the ground while Hickey, Scerbo and Shahid punched and kicked plaintiff in the chest and the head.
13. Plaintiff was placed under arrest and taken to the West District Police Station.
14. As a result of defendant's actions plaintiff suffered fractured right sixth, seventh and eighth ribs and a traumatic pneumothorax, right side.

FIRST CLAIM
(Fourth Amendment Unreasonable Seizure)

15. Plaintiff incorporates by reference the allegations of paragraphs 1 - 14.
16. The use of force against plaintiff was a seizure for purposes of the Fourth Amendment to the United States Constitution.
17. The use of force by Hickey, Shahid and Scerbo violated plaintiff's rights under the Fourth and Fourteenth Amendments to the United States Constitution, as applied through 42 U.S.C. §1983.

SECOND CLAIM
(New Jersey Constitution)

18. Plaintiff incorporates by reference the allegations of paragraphs 1 - 14.
19. The use of force against plaintiff was a seizure for purposes of the Art. 1 Sec 7 of the New Jersey Constitution.
20. The use of force by Hickey, Shahid and Scerbo violated plaintiff's rights under Art. 1 Sec 7 of the New Jersey Constitution.

THIRD CLAIM
(Common Law Assault and Battery)

21. Plaintiffs incorporate by reference the allegations of paragraphs 1 - 14.
22. The actions of the defendants constitute a common law assault and battery.

Fourth Claim
(Failure to Train and Supervise)

23. Plaintiffs incorporate by reference the allegations of paragraphs 1 - 14.

24. On information and belief, the Jersey City Police Department and the City of Jersey City failed to properly train and supervise Hickey, Scerbo and Shahid in the use of force and proper procedures for making an arrest.
25. The failure to properly train and supervise Hickey, Scerbo and Shahid caused plaintiff physical injury as alleged.

FIFTH CLAIM
(Municipal Liability under 42 U.S.C. § 1983)

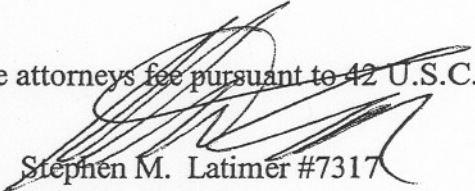
26. Plaintiffs incorporate by reference the allegations of paragraphs 1 - 27.
27. On information and belief, the Jersey City Police Department and the City of Jersey City have a policy and practice of failing to adequately train police officers concerning the use of force and the proper procedures for making arrests.
28. In accordance with that policy, on information and belief, the Jersey City Police Department and the City of Jersey City have failed to properly train and supervise Hickey, Scerbo and Shahid in the use of force and the proper manner of arresting individuals.
29. The failure to properly train and supervise Hickey, Scerbo and Shahid caused plaintiff physical injury as alleged.
30. The policy and practice as alleged violated plaintiff's rights under the Fourth Amendment to the United States Constitution as applied through 42 U.S.C. § 1983.

Wherefore plaintiffs demand judgment against defendants:

1. Awarding plaintiffs against each defendant, jointly and severally, compensatory, punitive, and special damages.

2. Awarding plaintiff costs and a reasonable attorneys fee pursuant to 42 U.S.C. § 1988.

Dated: 6/23/05

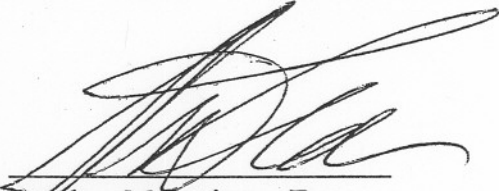


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e-mail slatimer@loughlinlatimer.com
Attorneys for plaintiff

R. 4:5-1(2) Certification

I hereby certify that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, and that no other action or arbitration proceeding is contemplated.

Dated: 6/23/05



Stephen M. Latimer, Esq.

Designation of Trial Counsel

Pursuant to R. 4:5-1 (c), the undersigned is hereby designated trial counsel for this matter.

Dated: 6/23/05

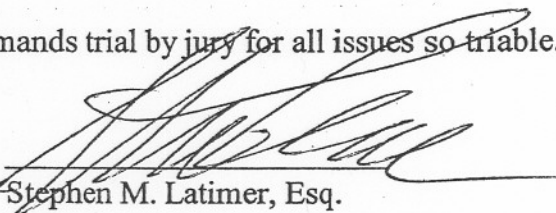


Stephen M. Latimer, Esq.

Demand for Trial by Jury

Pursuant to R. 4:35-1(a), plaintiff hereby demands trial by jury for all issues so triable.

Dated: 6/23/05



Stephen M. Latimer, Esq.

Acknowledgement Of Service
CIVIL ACTION

VC's adverse
copy. (File to
be opened.)

ACKNOWLEDGE SERVICE OF THE ANNEXED

as to City of DC & City of E
officials, only

21st OF JULY, 2005 IN THE MATTER OF

William HOLMES

WASEL vs. LEWIS SHAHID, ET AL.

ERIOR COURT OF NEW JERSEY, VENUE, DOCKET NUMBER

L-3205-05

ATURE: Joanne Morahan S.

TITLE: 1st Asst. Corp Counsel

TE OF NEW JERSEY, COUNTY OF AUDERSON BE IT REMEMBERED THAT ON 01st OF JULY, 2005

PERSONALLY CAME BEFORE ME AND ACKNOWLEDGED THAT HE/SHE

OF

SAID DEFENDANT INDICATED THAT HIS/HER SIGNATURE AS IT APPEARS IS HIS/HER LEGAL SIGNATURE.

and Sworn before me

01st of JULY, 2005

Notary

My commission expires

ney:
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ndant:
et:
e:

Stephen M. Latimer, Esq.
 Sherry G. Chachkin, Esq.
 Loughlin & Latimer
 131 Main Street, Suite 235
 Hackensack, New Jersey 07601
 201/487-9797
 Attorneys for Plaintiff

William Holmes,

Plaintiff,

vs.

Wael Lewis Shahid, Badge No. 2712;
 Tyrone Robert Hickey, Badge No. 2736;
 Det. "John" Scerbo; City of Jersey City;
 Jersey City Police Department,

Defendants.

SUPERIOR COURT OF NEW JERSEY
 LAW DIVISION

HUDSON COUNTY

Civil Action

DOCKET NO.: L-3205-05

SUMMONS

From The State of New Jersey

To The Defendant(s) Named Above:

Jersey City Police Department

The plaintiff, named above, has filed a lawsuit against you in the Superior Court of New Jersey. The complaint attached to this summons states the basis for this lawsuit. If you dispute this complaint, you or your attorney must file a written answer or motion and proof of service with the deputy clerk of the Superior Court in the county listed above within 35 days from the date you received this summons, not counting the date you received it. (The address of each deputy clerk of the Superior Court is provided.) If the complaint is one in foreclosure, then you must file your written answer or motion and proof of service with the Clerk of the Superior Court, Hughes Justice Complex, CN 971, Trenton, N.J. 08625. A filing fee payable to the Clerk of the Superior Court and a completed Case Information Statement (available from the deputy clerk of the Superior Court) must accompany your answer or motion when it is filed. You must also send a copy of your answer or motion to plaintiff's attorney whose name and address appear above, or to plaintiff, if no attorney is named above. A telephone call will not protect your rights; you must file and serve a written answer or motion (with fee of \$110.00 for Law Division and \$105.00 for Chancery Division and completed Case Information Statement) if you want the court to hear your defense.

If you do not file and serve a written answer or motion within 35 days, the court may enter a judgement against you for the relief plaintiff demands, plus interest and costs of suit. If judgement is entered against you, the Sheriff may seize your money, wages or property to pay all or part of the judgement.

If you cannot afford an attorney, you may call the Legal Services office in the county where you live. A list of these offices is provided. If you do not have an attorney and are not eligible for free legal assistance, you may obtain a referral to an attorney by calling one of the Lawyer Referral Services. A list of these numbers is also provided.


 DONALD F. PHELAN

Clerk of the Superior Court

DATED: 6/29/05

Name of Defendant to be Served:

Jersey City Police Department

Address of Defendant to be Served:

6 Erie Street, Jersey City, N.J. 07302

ATLANTIC COUNTY:

Deputy Clerk of the Superior Court
Civil Division, Direct Filing
1201 Bacharach Blvd., First Fl.
Atlantic City, NJ 08401
LAWYER REFERRAL
(609) 345-3444
LEGAL SERVICES
(609) 348-4200

BERGEN COUNTY:

Deputy Clerk of the Superior Court
Case Processing Section, Room 119
Justice Center, 10 Main Street
Hackensack, NJ 07601-0769
LAWYER REFERRAL
(201) 488-0044
LEGAL SERVICES
(201) 487-2166

BURLINGTON COUNTY:

Deputy Clerk of the Superior Court
Central Processing Office
Attn: Judicial Intake
First Fl., Courts Facility
49 Rancocas Rd.
Mt. Holly, N.J. 08060
LAWYER REFERRAL
(609) 261-4862
LEGAL SERVICES
(609) 261-1088

CAMDEN COUNTY:

Deputy Clerk of the Superior Court
Civil Processing Office
1st Fl., Hall of Records
101 S. Fifth Street
Camden, N.J. 08103
LAWYER REFERRAL
(856) 964-4520
LEGAL SERVICES
(856) 964-2010

CAPE MAY COUNTY:

Deputy Clerk of the Superior Court
9 N. Main Street
Box DN-209
Cape May Court House, NJ 08210
LAWYER REFERRAL
(609) 463-0313
LEGAL SERVICES
(609) 465-3001

CUMBERLAND COUNTY:

Deputy Clerk of the Superior Court
Civil Case Management Office
Broad & Fayette Sts., PO Box 615
LAWYER REFERRAL
(856) 692-6207
LEGAL SERVICES
(856) 451-0003

MIDDLESEX COUNTY:

Deputy Clerk of the Superior Court
Administration Building, Third Floor
1 Kennedy Sq., P.O. Box 2633
New Brunswick, N.J. 08903-2633
LAWYER REFERRAL
(732) 828-0053
LEGAL SERVICES
(732) 249-7600

MONMOUTH COUNTY:

Deputy Clerk of the Superior Court
71 Monument Park
P.O. Box 1269
Freehold, N.J. 07728-1262
LAWYER REFERRAL
(732) 431-5544
LEGAL SERVICES
(732) 866-0020

MORRIS COUNTY:

Deputy Clerk of the Superior Court
Civil Division
30 Schuyler Pl., PO Box 910
Morristown, N.J. 07960-0910
LAWYER REFERRAL
(973) 267-5882
LEGAL SERVICES
(973) 285-6911

OCEAN COUNTY:

Deputy Clerk of the Superior Court
Court House, Room 119
118 Washington Street
Toms River, N.J. 08754
LAWYER REFERRAL
(732) 240-3666
LEGAL SERVICES
(732) 341-2727

PASSAIC COUNTY:

Deputy Clerk of the Superior Court
Civil division
Court House
77 Hamilton Street
Paterson, N.J. 07505
LAWYER REFERRAL
(973) 278-9223
LEGAL SERVICES
(973) 345-7171

SALEM COUNTY:

Deputy Clerk of the Superior Court
92 Market St., PO Box 18
Salem, NJ 08079
LAWYER REFERRAL
(856) 935-5628
LEGAL SERVICES
(856) 451-0003

UPPER MERION COUNTY SUPERIOR COURT
UPPER MERION COUNTY
93 NEWARK AVENUE
NEWARK, NEW JERSEY 07102

TRACK ASSIGNMENT NOTICE

COURT TELEPHONE NO. (201) 217-5162
COURT HOURS

DATE: JUNE 27, 2005
RE: HOLMES VS SHAHID ET ALS
DOCKET: HUD L -003205 05

THE ABOVE CASE HAS BEEN ASSIGNED TO: TRACK 3.

DISCOVERY IS 450 DAYS AND RUNS FROM THE FIRST ANSWER OR 90 DAYS
FROM SERVICE ON THE FIRST DEFENDANT, WHICHEVER COMES FIRST.

THE PRETRIAL JUDGE ASSIGNED IS: HON JOSEPH CHARLES

IF YOU HAVE ANY QUESTIONS, CONTACT TEAM 001
(201) 533-2450.

IF YOU BELIEVE THAT THE TRACK IS INAPPROPRIATE YOU MUST FILE A
CERTIFICATION OF GOOD CAUSE WITHIN 30 DAYS OF THE FILING OF YOUR PLEADING.
PLAINTIFF MUST SERVE COPIES OF THIS FORM ON ALL OTHER PARTIES IN ACCORDANCE
WITH R.4:5A-2.

ATTENTION:

ATT: STEPHEN M. LATIMER
LOUGHLIN & LATIMER
131 MAIN STREET
SUITE 235
HACKENSACK NJ 07601

JULIA